



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,436	01/17/2002	Kevin O'Brien	01-727	3525

7590 10/10/2006

Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/053,436	Applicant(s) O'BRIEN ET AL.	
	Examiner Mike Tomaszewski	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the amendment filed on 7/27/06. Claim 15 has been canceled. Claims 1, 4, 12, 14, 17, 19, 21, 23 and 32 have been amended. Claims 1-14 and 16-35 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 and 16-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al. (5,867,821; hereinafter Ballantyne), in view of Joao (6,283,761; hereinafter Joao).

Art Unit: 3626

(A) As per currently amended claim 1, Ballantyne discloses an interactive system for providing information to patients in a non-hospital medical setting comprising:

- (1) at least one video display unit located within at least one examination/consultation room in a non-hospital medical setting
(Ballantyne: abstract; col. 2, lines 12-15; Fig. 1-12B);
- (2) a list of available programs for viewing by a patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (3) a manual device for entering a program number selected from said list by said patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
and
- (4) an electronic device containing a plurality of video files connected to said at least one video display so that a program selected by said patient using said manual device is provided by said electronic device to said at least one video display unit (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B).

Ballantyne, however, fails to *expressly* disclose an interactive system for providing information to patients in a medical setting comprising:

- (5) means for changing and updating said video files on said electronic device.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system for providing information to patients in a medical setting comprising:

- (5) means for changing and updating said video files on said electronic device
(Joao: abstract; col. 16, line 4-col. 20, line 39).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(B) As per original claim 2, Ballantyne fails to *expressly* disclose an interactive system according to claim 1, wherein said changing and updating means is external to said medical setting.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system according to claim 1, wherein said changing and updating means is external to said medical setting (Joao: abstract; col. 16, line 4-col. 20, line 39; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of

Art Unit: 3626

providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(C) As per original claim 3, Ballantyne fails to *expressly* disclose an interactive system according to claim 1, wherein said changing and updating means is internal to said medical setting.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system according to claim 1, wherein said changing and updating means is internal to said medical setting (Joao: abstract; col. 16, line 4-col. 20, line 39; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(D) As per currently amended claim 4, Ballantyne discloses an interactive system for providing information to patients in a medical setting comprising:

- (1) at least one video display unit located within a medical setting (Ballantyne: abstract; col. 2, lines 12-15; Fig. 1-12B);
- (2) a list of available programs for viewing by a patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);

Art Unit: 3626

- (3) a manual device for entering a program number selected from said list by said patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (4) an electronic device containing a plurality of video files connected to said at least one video display so that a program selected by said patient using said manual device is provided by said electronic device to said at least one video display unit (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B); and
- (5) said electronic device maintaining a log of each program selected by said viewer (Ballantyne: abstract; col.6, line 66-col. 7, line 1; Fig. 1-12B).

Ballantyne, however, fails to *expressly* disclose an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device (Joao: abstract; col. 16, line 4-col. 20, line 39).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(E) As per original claim 5, Ballantyne fails to *expressly* disclose an interactive system according to claim 4, wherein said changing and updating means comprises means for accessing data in said log maintained by said electronic device.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system according to claim 4, wherein said changing and updating means comprises means for accessing data in said log maintained by said electronic device (Joao: abstract; col. 16, line 4-col. 20, line 39; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(F) As per original claim 6, Ballantyne discloses an interactive system according to claim 4, further comprising said changing and updating means communicating with said electronic device via a satellite link (Ballantyne: abstract; col. 6, lines 47-57; Fig. 1-12B).

(G) As per original claim 7, Ballantyne fails to *expressly* disclose an interactive system according to claim 4, further comprising said changing and updating means communicating with said electronic device via at least one of a telephone line and a terrestrial line.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system according to claim 4, further comprising said changing and updating means communicating with said electronic device via at least one of a telephone line and a terrestrial line (Joao: abstract; col. 3, lines 45-53; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(H) As per original claim 8, Ballantyne fails to *expressly* disclose an interactive system according to claim 4, wherein said changing and updating means comprises an electronic device located at a location remote from said medical setting.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system according to claim 4, wherein said changing and updating means comprises an electronic device located at a location

Art Unit: 3626

remote from said medical setting (Joao: abstract; col. 3, line 33-col. 4, line 5; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(I) As per original claim 9, Ballantyne discloses an interactive system according to claim 1, wherein said plurality of video files on said electronic device include video programs about healthcare information (Ballantyne: abstract; col. 1, line 65-col. 2, line 62; Fig. 1-12B).

The Examiner has noted insofar as claim 9 recites "at least one of medical news, medical illustrations, product education, medical conditions and healthcare information," healthcare information has been recited.

(J) As per original claim 10, Ballantyne fails to *expressly* disclose an interactive system according to claim 9, wherein at least some of said video programs contain advertisements for medical products and instructions for taking such medical products.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system according to claim 9, wherein at least some of said video programs contain advertisements for medical products and

Art Unit: 3626

instructions for taking such medical products (Joao: abstract; col. 16, line 33-col. 20, line 39; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(K) As per original claim 11, Ballantyne discloses an interactive system according to claim 1, wherein said list of available programs comprises an on-screen display of said available programs (Ballantyne: abstract; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

(L) As per currently amended claim 12, Ballantyne discloses an interactive system for providing information to patients in a medical setting comprising:

- (1) at least one video display unit located within a medical setting (Ballantyne: abstract; col. 2, lines 12-15; Fig. 1-12B);
- (2) a list of available programs for viewing by a patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (3) a manual device for entering a program number selected from said list by said patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (4) an electronic device containing a plurality of video files connected to said at least one video display so that a program selected by said patient using

said manual device is provided by said electronic device to said at least one video display unit (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B); and

- (5) a hand-held user interface containing said list of available programs and said manual device (Ballantyne: abstract; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

Ballantyne, however, fails to *expressly* disclose an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device (Joao: abstract; col. 16, line 4-col. 20, line 39).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of

Art Unit: 3626

providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(M) As per original claim 13, Ballantyne discloses an interactive system according to claim further comprising said manual device comprising a remote control device having a keypad, touchpad, mouse or keyboard (Ballantyne: abstract; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

(N) As per currently amended claim 14, Ballantyne discloses an interactive system according to claim 1, further comprising said at least one video display unit comprising at least one television monitor located within a patient examining room in said non-hospital medical setting (Ballantyne: abstract; col. 1, line 65-col. 2, line 63; Fig. 1-12B).

(O) As per original claim 16, Ballantyne fails to *expressly* disclose an interactive system according to claim 1, further comprising said at least one video display unit comprising at least one television monitor located in a pharmacy setting.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system according to claim 1, further comprising said at least one video display unit comprising at least one television monitor located in a pharmacy setting (Joao: abstract; col. 23, line 60-col. 24, line 11; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(P) As per currently amended claim 17, Ballantyne discloses an interactive system for providing information to patients in a medical setting comprising:

- (1) at least one video display unit located within a medical setting (Ballantyne: abstract; col. 2, lines 12-15; Fig. 1-12B);
- (2) a list of available programs for viewing by a patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (3) a manual device for entering a program number selected from said list by said patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (4) an electronic device containing a plurality of video files connected to said at least one video display so that a program selected by said patient using said manual device is provided by said electronic device to said at least one video display unit (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B); and
- (5) said medical setting having a plurality of patient examining/consultation rooms and said system including a television monitor in each of said

examining/consultation rooms (Ballantyne: abstract; col. 1, line 65-col. 2, line 63; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

Ballantyne, however, fails to *expressly* disclose an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device
(Joao: abstract; col. 16, line 4-col. 20, line 39).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

Art Unit: 3626

(Q) As per original claim 18, Ballantyne discloses an interactive system according to claim 17, further comprising each said television monitor being connected to said electronic device (Ballantyne: abstract; col. 1, line 65-col. 2, line 63; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

(R) As per currently amended claim 19, Ballantyne discloses an interactive system according to claim 1, further comprising a plurality of video display units in said medical setting and said electronic device having a capability to simultaneously provide the same program content to each of said video display units (Ballantyne: abstract; col. 1, line 65-col. 2, line 63; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

(S) As per original claim 20, Ballantyne discloses an interactive system according to claim 1, wherein said list of available programs comprises a list of channels and a program associated with each of said channels (Ballantyne: abstract; col. 1, line 65-col. 2, line 63; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

(T) As per currently amended claim 21, Ballantyne discloses an interactive program for providing information to patients in a medical setting comprising:

- (1) at least one video display unit located within a medical setting (Ballantyne: abstract; col. 2, lines 12-15; Fig. 1-12B);

- (2) a list of available programs for viewing by a patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (3) a manual device for entering a program number selected from said list by said patient (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B);
- (4) an electronic device containing a plurality of video files connected to said at least one video display so that a program selected by said patient using said manual device is provided by said electronic device to said at least one video display unit (Ballantyne: abstract; col. 8, line 65-col. 10, line 9; Fig. 1-12B); and
- (5) said manual device comprising a device for generating an infrared signal and said at least one video display unit has means for receiving said infrared signal and for transmitting said infrared signal to said electronic device (Ballantyne: abstract; col. 1, line 65-col. 2, line 63; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

Ballantyne, however, fails to *expressly* disclose an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses an interactive system for providing information to patients in a medical setting comprising:

- (6) means for changing and updating said video files on said electronic device
(Joao: abstract; col. 16, line 4-col. 20, line 39).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

(U) As per claim 22, Ballantyne discloses an interactive system according to claim 1, having an automatic turn-on feature and an automatic turn-off feature (Ballantyne: abstract; col. 8, lines 60-64; Fig. 1-12B).

(V) Claims 23-29 are substantially similar in scope to claims 1-18 and therefore, are rejected on the same basis as those claims.

As per the limitation in claim 29 reciting "a portable electronic device," Ballantyne discloses the use of a portable electronic device (Ballantyne: abstract; col. 8, line 65-col. 10, line 27; Fig. 1-12B).

(W) Claims 30-34 are substantially similar in scope to claims 1-18 and therefore, are rejected on the same basis as those claims.

(X) As per original claim 35, Ballantyne fails to *expressly* disclose a method according to claim 34, further comprising utilizing said gathered information to compute an amount due from at least one of advertisers and sponsors.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses a method according to claim 34, further comprising utilizing said gathered information to compute an amount due from at least one of advertisers and sponsors (Joao: abstract; col. 6, line 65-col. 7, line 7; Fig. 1-15B).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Joao with the teachings of Ballantyne with the motivation of providing an apparatus and a method for processing and/or for providing healthcare-related information (Joao: col. 8, lines 3-7).

Response to Arguments

4. Applicant's arguments filed 7/27/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 7/27/06.

(A) On pages 15-16 of the 7/27/06 response, Applicant argues there is no contemplation by Ballantyne of providing any display unit in an examination/consultation room in a non-hospital medical setting. Applicant further argues that Joao does not cure this deficiency in Ballantyne.

In response, Examiner respectfully submits that both Ballantyne and Joao do indeed teach this limitation. For example, Ballantyne unequivocally teaches that the system is utilized/implemented in not only hospitals, but also "*other types of health care facilities, and patients' home*" (Ballantyne: col. 1, lines 1-17). [Emphasis added]. A broad yet reasonable interpretation of an examination/consultation room in a non-hospital medical setting includes a patients' home.

Moreover, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

(B) On pages 16-17 of the 7/27/06 response, Applicant argues Ballantyne clearly does not teach or suggest the use of an electronic device, which maintains a log of each program selected by the viewer. Applicant also argues that Joao is also deficient in this respect.

In response, Examiner notes that Ballantyne clearly states its' system includes "accounting software to *monitor patient usage*" and also teaches the use of "an *access log*" (Ballantyne: col. 6, line 66-col. 7, line 1; col. 8, lines 58-60). [Emphasis added]. As

Art Unit: 3626

such, in order to accurately account for (i.e., bill) a user, the system monitors the user's usage (i.e., programs selected for viewing, length of telephone use, etc.), much like pay-per-view/on-demand television and telephone companies itemize their customer usage for billing purposes.

(C) On page 17 of the 7/27/06 response, Applicant argues neither reference, that is, neither Ballantyne nor Joao, teaches nor suggests an electronic device that maintains a log of each program selected by the viewer.

In response, Examiner directs Applicant's attention to section 4. (B), *supra*.

(D) On pages 17-18 of the 7/27/06 response, Applicant argues Ballantyne does not teach the limitation of there being a list of available programs on an on-screen display nor provides any details as to how the patient would obtain a list of available programs.

In response, Examiner respectfully submits that Ballantyne does indeed teach these limitations. For example, Ballantyne teaches indexing, *inter alia*, video files (i.e., creating a list of programs) and provides a storage, search and retrieval system to peruse content lists (Ballantyne: col. 7, lines 32-39; col. 7, lines 57-59). Moreover, Ballantyne teaches that the multimedia content is subdivided into categories (i.e., lists of available programs), such as, *cable TV programming and video on demand movies*, etc.—a skilled artisan in the multimedia field is cognizant that TV programs and video on demand movies are routinely displayed via a “list of available programs” (Ballantyne: col. 9, lines 61-67).

(E) On page 18 of the 7/27/06 response, Applicant argues neither Ballantyne nor Joao teaches or suggests a hand-held user interface containing a list of available programs and a manual device.

In response, Examiner notes that both Ballantyne and Joao are in fact replete with teachings of a hand-held user interface containing a list of available programs and a manual device. For example, Ballantyne teaches the integration of personal Data assistants (PDAs) (i.e., hand-held manual user interfaces) to enable a user to utilize the Ballantyne system (Ballantyne: col. 3, line 65).

(F) On pages 18-19 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao disclose neither locating at least one television monitor within a patient examining room in a non-hospital medical setting nor locating at least one television monitor in a pharmacy setting.

In response, Examiner directs Applicant's attention to section 4. (A), *supra*.

(G) On page 19 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao discusses including a television monitor in each of the examination/consultation rooms in a medical setting.

In response, Examiner notes that a mere duplication of parts (i.e., a plurality of TVs in multiple rooms) has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

(H) On page 19 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches or suggests an electronic device having the capability to simultaneously provide the same program content to each of a plurality of video display units.

In response, Examiner notes that a mere duplication of parts (i.e., simultaneously providing the same program content on each display unit) has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

(I) On pages 19-20 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches or suggests a manual device comprising a device for generating an infrared signal and said at least one video display unit as a means for receiving said infrared signal and for transmitting said infrared signal to said electronic device.

In response, Examiner respectfully submits that both Ballantyne and Joao do in fact teach and suggest the aforementioned limitations. For example, Ballantyne teaches "a wireless or *Infra Red (IR) transmitter/receiver to communicate with a Personal Data Assistant (PDA)*" and the Ballantyne system (i.e., video display units, etc.) (Ballantyne: col. 9, lines 9-11). [Emphasis added].

(J) On page 20 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches nor suggests an interactive system, which has an automatic turn-on feature and an automatic turn-off feature.

In response, Examiner respectfully submits that both Ballantyne and Joao do indeed teach and suggest an interactive system, which has an automatic turn-on feature and an automatic turn-off feature. For example, Ballantyne teaches that "If for any reason the user forgets to log-off the network, their access is *automatically terminated* [i.e., turned-off]" (Ballantyne: col. 8, lines 62-64). [Emphasis added].

Moreover, Examiner notes that merely automating a manual activity (e.g., turning a system on or off) is not sufficient to distinguish Applicant's claimed invention over the prior art. In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

(K) On pages 20-21 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches nor suggests updating the video files on an electronic device from another electronic device located remote from the medical setting.

In response, Examiner respectfully submits that Joao does teach theses features. For example, Joao teaches that any data can be updated by different parties, made available to all other parties, transmitted to all other parties, and/or stored/shared on the systems/databases of all other parties (Joao: col. 14, line 59-col. 15, line 5; col. 20, lines 34-39).

Art Unit: 3626

(L) On page 21 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches nor suggests a step of maintaining a log of video files viewed by said individuals on said electronic device.

In response, Examiner directs Applicant's attention to section 4. (B), *supra*.

(M) On page 21 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches nor suggests periodically downloading information maintained in the log to a remote device for analysis of that information.

In response, Examiner directs Applicant's attention to section 4. (B), *supra*.

(N) On page 21 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches nor suggests maintaining a log of each selected video file on the electronic device.

In response, Examiner directs Applicant's attention to section 4. (B), *supra*.

(O) On page 21 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches nor suggests gathering information about viewed programs by accessing the log via another electronic device.

In response, Examiner directs Applicant's attention to section 4. (B), *supra*.

Art Unit: 3626

(P) On page 21 of the 7/27/06 response, Applicant argues that neither Ballantyne nor Joao teaches nor suggests utilizing and gathering information to compute an amount due from at least one of advertisers and sponsors.

In response, Examiner respectfully submits that Joao teaches maintain financial/billing accounts for vast array of parties (i.e., hospitals, physicians, patients, and intermediaries, such as, sponsors, etc.). Moreover, Examiner notes that Joao teaches the use of referrals (i.e., referring sponsors/advertisers of services) and that it is well known and obvious to generate referral fees (i.e., amount due for providing the referral). Lastly, Examiner notes that a skilled artisan within the promotional/advertising industries would have found it obvious to compute an amount due from an advertiser/sponsor for services (e.g., displaying/promoting/advertising an advertiser's/sponsor's multimedia content) rendered by a vendor (e.g., multimedia provider). In short, the aforementioned limitations of Applicant's claimed invention are not sufficient to distinguish it from the prior art.

(Q) Applicant's remaining arguments within the response filed 7/27/06 rely upon or re-hash the issues addressed above and therefore, are moot in view of the responses given in sections 4. (A)-(P) above and incorporated herein.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

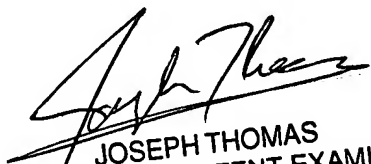
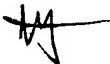
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT



JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER